

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TED JAMES WINFREY,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-24-310-F
)	
DAVID LOUTHAN, Warden,)	
)	
Respondent.)	

ORDER

On October 9, 2024, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation (doc. no. 16), recommending the court grant respondent's motion to dismiss (doc. no. 11) and dismiss petitioner's 28 U.S.C. § 2254 habeas petition as untimely filed under 28 U.S.C. § 2244(d)(1).

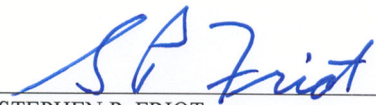
The court is in receipt of a response (doc. no. 17) by petitioner to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1), the court has conducted a *de novo* review of the matter. Having done so, the court concurs with the analysis by Magistrate Judge Mitchell. The court finds no reason to repeat that analysis here. The court concludes that petitioner has failed to show any error in Magistrate Judge Mitchell's analysis, and he has specifically failed to demonstrate he is entitled to equitable tolling of the one-year limitations period. The court accepts, adopts, and affirms the Report and Recommendation in its entirety.

Petitioner's 28 U.S.C. § 2254 habeas petition will be dismissed as untimely filed under 28 U.S.C. § 2244(d)(1). Additionally, because the court concludes petitioner cannot show "that jurists of reason would find it debatable whether the []

court [is] correct in its procedural ruling,” Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability will be denied.

Accordingly, the Report and Recommendation (doc. no. 16) issued by United States Magistrate Judge Suzanne Mitchell is **ACCEPTED**, **ADOPTED**, and **AFFIRMED**. Respondent’s Pre-Answer Motion to Dismiss 28 U.S.C. § 2254 Habeas Corpus Petition as Untimely (doc. no. 11) is **GRANTED**. Petitioner’s Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (doc. no. 1) is **DISMISSED** as untimely filed under 28 U.S.C. § 2244(d)(1). A certificate of appealability is **DENIED**. A judgment shall be entered separately.

DATED this 1st day of November, 2024.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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